

CHAPTER 1203**POLICE AND FIRE RETIREMENT SYSTEMS***H.F. 2405*

AN ACT relating to the administration of the local police and fire retirement systems.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 411.5, subsection 1, paragraph e, Code 1985, is amended to read as follows:

e. Upon Beginning with the effective date of this Act, upon the taking effect of this chapter, the mayor, with the approval of the city council, shall appoint ~~two~~ three citizens who do not hold any other public office, to serve as members of said the boards of trustees; one of whom shall serve until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year. Thereafter, every second year, one such citizen shall be so appointed for a four-year term appointments shall be made for four-year terms.

Sec. 2. Section 411.5, subsection 8, Code 1985, is amended to read as follows:

8. **LEGAL ADVISER.** The city attorney or solicitor of a city shall serve as the legal adviser of the board of trustees at the request of the board or the board of trustees may employ or retain an attorney on a per diem basis to represent the board of trustees when, in the opinion of the board of trustees, there is a conflict of interest between the board of trustees and the city council. The costs of an attorney employed or retained by the board of trustees shall be paid from the expense fund created in section 411.8.

Sec. 3. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A beneficiary retired under the provisions of this paragraph, in order to be eligible for continued receipt of retirement benefits, shall no later than May 15 of each year submit to the board of trustees a copy of the beneficiary's state federal individual income tax return for the preceding year.

Sec. 4. Section 411.7, subsection 2, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of trustees may negotiate a joint agreement under chapter 28E with another board of trustees, a utility board, a city council, or all of these, that provides for the joint investment of moneys under the control of the boards of trustees, the utility board, and the city council. The investment of the moneys is subject to this section and section 452.10 and to the limitations stated in the joint agreement.

Sec. 5. **NEW SECTION. 411.22 LIABILITY OF THIRD PARTIES – SUBROGATION.**

1. If a member receives an injury for which benefits are payable under section 411.6, subsection 5, or section 411.15 and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the retirement system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the retirement system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the retirement system, and the following rights and duties ensue:

a. The retirement system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the retirement system, with legal interest, except that the plaintiff member's attorney fees are not indemnifiable.

b. The retirement system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the retirement system is liable. In order to continue and preserve the lien, the retirement system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

2. If a member fails to bring an action for damages against a third party within thirty days after the retirement system requests the member in writing to do so, the retirement system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

a. A sum sufficient to repay the retirement system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.

b. A sum sufficient to pay the retirement system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.

c. Any balance shall be paid to the member.

3. Before a settlement is effective between a retirement system and a third party who is liable for an injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the retirement system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which the city and the retirement system is located must consent in writing to the settlement.

4. For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

Sec. 6. The term of the third citizen member appointed by the mayor, with the approval of the city council, that expires on June 30 shall be extended until April 30 of the following year.

Approved May 21, 1986

CHAPTER 1204

BLOOMFIELD LEGALIZING ACT

H.F. 2485

AN ACT to legalize the proceedings of the city council of Bloomfield, Iowa, to transfer certain moneys to the general fund of the city.

WHEREAS, the city of Bloomfield, Iowa has incurred a deficit in the general fund of the city in the amount of three hundred seventy-two thousand four hundred ninety dollars and ninety-eight cents; and

WHEREAS, the city council of the city desires to transfer two hundred forty-four thousand nine hundred eighty-five dollars and nineteen cents from its trust and agency fund and thirty-four thousand nine hundred sixty-two dollars and eighty-six cents from its insurance fund to reduce the amount of the deficit; and

WHEREAS, doubts have arisen concerning the legality of the transfers proposed from the trust and agency fund and the insurance fund to the general fund of the city and it is deemed advisable and necessary to put such doubts and all others that may be raised concerning the transfer to rest; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. That the transfer of two hundred seventy-nine thousand nine hundred forty-eight dollars and five cents from the trust and agency fund and the insurance fund to the general fund of the city by the city council of Bloomfield, Iowa, is hereby legalized, validated and confirmed.

Approved May 21, 1986